

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	Cr. No. 09-10028-DPW
	)	
LORRAINE HENDERSON,	)	
Defendant.	)	

**DEFENDANT’S SUPPLEMENTAL REQUESTS FOR INSTRUCTIONS**

1. In order to find the defendant guilty [of violating section 1324(a)(1)(A)], you must find that the defendant acted with criminal intent; that is, the intent to violate the United States immigration laws. *See United States v. Yoshida*, 303 F.3d 1145, 1149 (9<sup>th</sup> Cir. 2002) and cases cited.
2. It is not unlawful for a person merely to “associate” with an illegal alien.
3. Aliens who unlawfully reside in the United States are nevertheless entitled to be paid for services they perform. *See Barros v. E.W. Bliss Co.*, 1993 U.S. Dist. LEXIS 4015, 1-4 (D. Mass. Mar. 25, 1993) (Zobel, D.J.) and cases cited.
4. It is not unlawful to contract with an illegal alien for the provision of domestic service in a private home that is sporadic, irregular or intermittent. *See* 8 C.F.R. § 274a.1(g), (h) and (j); *Jenkins v. INS*, 108 F.3d 195, 199 (9<sup>th</sup> Cir. 1997).
5. In order to find that the defendant “encouraged” Ms. Bitencourt, you must find, at a minimum, that the defendant took some affirmative act to assist Ms. Bitencourt to remain in the United States. *See Zavala v. Wal-Mart Stores, Inc.*, 393 F. Supp. 2d 295, 308 (D.N.J. 2005), *accord Hager v. ABX Air, Inc.*, 2008 U.S. Dist. LEXIS 23486 at 23 (S.D. Ohio Mar. 25, 2008). “Encouraging” relates to actions taken to convince an illegal alien to reside in this country, and it not enough merely to speak words of encouragement. *See United States v. Oloyede*, 982 F.2d 133, 136-137 (4<sup>th</sup> Cir. 1992).
6. If you find that the defendant did no more than (1) contract with, and pay, Ms. Bitencourt for the provision of ordinary cleaning services in the defendant’s home and (2) warn Ms. Bitencourt not to leave the United States pending the filing of papers seeking to obtain lawful immigration status, then you must find the defendant not guilty. *See* 8 C.F.R. § 274a.1(g), (h) and (j); *Zavala v. Wal-Mart Stores, Inc.*, 393 F. Supp. 2d 295, 307-308 (D.N.J. 2005), *accord Hager v. ABX Air, Inc.*, 2008 U.S. Dist. LEXIS 23486, 22-26 (S.D. Ohio Mar. 25, 2008).

By her attorney,

Dated: March 21, 2010

/s/ Francis J. DiMento

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**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on this date.

/s/ Francis J. DiMento

Francis J. DiMento